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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,781	07/27/2001	Richard J. Roll	2125.002USU	8798

7590 12/19/2003

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/916,781

Applicant(s)

ROLL ET AL.

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

Claims 1-9, 11, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al. '901.

Hager et al. disclose or inherently teach the limitations of the claims including: requesting a term of offer related to items (*see for example paragraph [0032]*); obtaining, by a host provider (*i.e., web services system 100,200*), the requested term of offer from at least one product/service provider (*i.e., store*); adjusting a second offer in response to obtaining the requested term of offer (*by dispensing a target coupon when a competitive product is identified; see paragraph [0033], lines 6-7*), presenting the offers to a data requestor device (*i.e., computer; see paragraph [0033]*).

Hager et al. lack the specific teaching of use with a single "item".

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to use the system for a single item, in order to provide the user with this option, as is well known in e-commerce.

Re claims 13-15, the "pricing model" is the identification of sales items and target coupons in Hager et al.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al., in view of an obvious design choice.

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Hager et al. disclose all the limitations of the claim except the step of adjusting the second term of offer for the item comprising determining if the host provider itself offers the item.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to have the step of adjusting the second term of offer for the item comprise determining if the host provider itself offers the item, as it is obvious for a service company to check its own resources before seeking others to provide the service, in order to maximize profits.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al., as applied to claim 1 above, and further in view of Trubey et al. '930.

Hager et al. disclose all the limitations of the claim except varying the second term of offer to include a price margin for the host provider.

Trubey et al. teach that it is common for host sites to receive a "commission or referral fee" (See paragraph [0008]) for helping buyers find products on the Internet.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to have the second term of offer include a price margin for the host provider, in view of Trubey et al., in order to pay the host provider for its value added service.

### ***Response to Arguments***

Applicant's arguments filed 9/5/03 have been fully considered but they are not persuasive.

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Applicant argues that the "Hager shopping tool itself does not adjust or otherwise modify the pricing of the items as obtained from retailers/manufacturers". However, the Hager shopping tool provides the means for performing this limitation and when interpreted broadly, Hager anticipates the method steps of the claims, as presently written.

not specifically claimed

The applicant further argues that Hager does not provide a second term of offer or an adjusted second term of offer. However, Hager teaches, "for those manufacturers that participate", dispensing a target coupon when a competitive product is identified on a customer's list (paragraph 0033). Thus, in order to perform this function, there has to be a first offer (*i.e., the competitor's offer*), a second offer (*the participating manufacturer's offer*), and an adjusted offer (*the offer discounted by the coupon*).

Re claim 10: The applicant's argument with respect to an obvious design choice is not convincing and thus the rejection is maintained.

Re claim 12: The applicant argues that the claimed second term of offer for the item including a minimum price margin for the host provider is not a referral fee or a commission. However, when the claim is interpreted broadly, the minimum price margin can be interpreted as a referral fee or commission.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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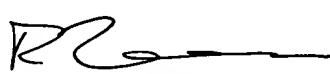
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113 .

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9327 for after-final communications.

F. Zeender  
Patent Examiner, A.U. 3627  
December 17, 2003

 12/17/03